

**BEFORE THE
MEDICAL BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation)	
Against:)	
)	
)	
Hai Van Nguyen, M.D.)	Case No. 12-2011-216564
)	
Physician's and Surgeon's)	
Certificate No. A 44145)	
)	
Respondent)	
_____)	

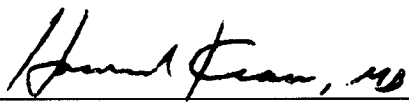
DECISION

The attached Stipulated Settlement and Disciplinary Order is hereby adopted as the Decision and Order of the Medical Board of California, Department of Consumer Affairs, State of California.

This Decision shall become effective at 5:00 p.m. on July 14, 2016.

IT IS SO ORDERED: June 14, 2016.

MEDICAL BOARD OF CALIFORNIA



Howard Krauss, M.D., Chair
Panel B

1 KAMALA D. HARRIS
Attorney General of California
2 JANE ZACK SIMON
Supervising Deputy Attorney General
3 BRENDA P. REYES
Deputy Attorney General
4 State Bar No. 129718
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Attorneys for Complainant
7

8 **BEFORE THE**
9 **MEDICAL BOARD OF CALIFORNIA**
10 **DEPARTMENT OF CONSUMER AFFAIRS**
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 12-2011-216564

13 **HAI VAN NGUYEN, M.D.**
14 **1400 E. 14th Street, Suite H**
15 **Oakland, CA 94606-4496**

OAH No. 2015120839

16 **Physician's and Surgeon's Certificate**
17 **No. A 44145**

STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER

Respondent.

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 PARTIES

21 1. Kimberly Kirchmeyer (Complainant) is the Executive Director of the Medical Board
22 of California. She brought this action solely in her official capacity and is represented in this
23 matter by Kamala D. Harris, Attorney General of the State of California, by Brenda P. Reyes,
24 Deputy Attorney General.

25 2. Respondent Hai Van Nguyen, M.D. (Respondent) is represented in this proceeding by
26 attorney Albert J. Garcia, Esq., whose address is: 2000 Powell Street, Suite 1290, Emeryville,
27 CA 94608.

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3. On or about October 26, 1987, the Medical Board of California issued Physician's and Surgeon's Certificate No. A 44145 to Respondent. The Physician's and Surgeon's Certificate was in full force and effect at all times relevant to the charges brought in Accusation No. 12-2011-216564 and will expire on December 31, 2016, unless renewed.

JURISDICTION

4. Accusation No. 12-2011-216564 was filed before the Medical Board of California (Board), Department of Consumer Affairs, and is currently pending against Respondent. The Accusation and all other statutorily required documents were properly served on Respondent on March 20, 2014. Respondent timely filed his Notice of Defense contesting the Accusation.

5. A copy of Accusation No. 12-2011-216564 is attached as Exhibit A and incorporated herein by reference.

ADVICE AND WAIVERS

6. Respondent has carefully read, fully discussed with counsel, and understands the charges and allegations in Accusation No. 12-2011-216564. Respondent has also carefully read, fully discussed with counsel, and understands the effects of this Stipulated Settlement and Disciplinary Order.

7. Respondent is fully aware of his legal rights in this matter, including the right to a hearing on the charges and allegations in the Accusation; the right to be represented by counsel at his own expense; the right to confront and cross-examine the witnesses against him; the right to present evidence and to testify on his own behalf; the right to the issuance of subpoenas to compel the attendance of witnesses and the production of documents; the right to reconsideration and court review of an adverse decision; and all other rights accorded by the California Administrative Procedure Act and other applicable laws.

8. Respondent voluntarily, knowingly, and intelligently waives and gives up each and every right set forth above.

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1 CULPABILITY

2 9. Respondent does not contest that, at an administrative hearing, Complainant could
3 establish a *prima facie* case with respect to the charges and allegations contained in Accusation
4 No. 12-2011-216564 and that he has thereby subjected his license to disciplinary action.

5 10. Respondent agrees that if he ever petitions for early termination or modification of
6 probation, or if the Board ever petitions for revocation of probation, all of the charges and
7 allegations contained in Accusation No. 12-2011-216564 shall be deemed true, correct and fully
8 admitted by Respondent for purposes of that proceeding or any other licensing proceeding
9 involving Respondent in the State of California.

10 11. Respondent agrees that his Physician's and Surgeon's Certificate is subject to
11 discipline and he agrees to be bound by the Board's probationary terms as set forth in the
12 Disciplinary Order below.

13 CONTINGENCY

14 12. This stipulation shall be subject to approval by the Medical Board of California.
15 Respondent understands and agrees that counsel for Complainant and the staff of the Medical
16 Board of California may communicate directly with the Board regarding this stipulation and
17 settlement, without notice to or participation by Respondent or his counsel. By signing the
18 stipulation, Respondent understands and agrees that he may not withdraw his agreement or seek
19 to rescind the stipulation prior to the time the Board considers and acts upon it. If the Board fails
20 to adopt this stipulation as its Decision and Order, the Stipulated Settlement and Disciplinary
21 Order shall be of no force or effect, except for this paragraph, it shall be inadmissible in any legal
22 action between the parties, and the Board shall not be disqualified from further action by having
23 considered this matter.

24 13. The parties understand and agree that Portable Document Format (PDF) and facsimile
25 copies of this Stipulated Settlement and Disciplinary Order, including PDF and facsimile
26 signatures thereto, shall have the same force and effect as the originals.

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14. In consideration of the foregoing admissions and stipulations, the parties agree that the Board may, without further notice or formal proceeding, issue and enter the following Disciplinary Order:

DISCIPLINARY ORDER

IT IS HEREBY ORDERED that Physician's and Surgeon's Certificate No. A 44145 issued to Respondent Hai Van Nguyen, M.D. is revoked. However, the revocation is stayed and Respondent is placed on probation for seven (7) years on the following terms and conditions.

1. CONTROLLED SUBSTANCES- MAINTAIN RECORDS AND ACCESS TO RECORDS AND INVENTORIES. Respondent shall maintain a record of all controlled substances ordered, prescribed, dispensed, administered, or possessed by Respondent, and any recommendation or approval which enables a patient or patient's primary caregiver to possess or cultivate marijuana for the personal medical purposes of the patient within the meaning of Health and Safety Code section 11362.5, during probation, showing all the following: 1) the name and address of patient; 2) the date; 3) the character and quantity of controlled substances involved; and 4) the indications and diagnosis for which the controlled substances were furnished.

Respondent shall keep these records in a separate file or ledger, in chronological order. All records and any inventories of controlled substances shall be available for immediate inspection and copying on the premises by the Board or its designee at all times during business hours and shall be retained for the entire term of probation.

2. EDUCATION COURSE. Within 60 calendar days of the effective date of this Decision, and on an annual basis thereafter, Respondent shall submit to the Board or its designee for its prior approval educational program(s) or course(s) which shall not be less than 40 hours per year, for each year of probation. The educational program(s) or course(s) shall be aimed at correcting any areas of deficient practice or knowledge, **including knowledge/practice deficiencies in patient assessment and prescribing practices**, and shall be Category I certified. The educational program(s) or course(s) shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure. Following the completion of each course, the Board or its designee may administer an examination to test

Respondent's knowledge of the course. Respondent shall provide proof of attendance for 65 hours of CME of which 40 hours were in satisfaction of this condition.

3. PREScribing PRACTICES COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in prescribing practices equivalent to the Prescribing Practices Course at the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in advance by the Board or its designee. Respondent shall provide the program with any information and documents that the Program may deem pertinent. Respondent shall participate in and successfully complete the classroom component of the course not later than six (6) months after Respondent's initial enrollment. Respondent shall successfully complete any other component of the course within one (1) year of enrollment. The prescribing practices course shall be at Respondent's expense and shall be in addition to the Continuing Medical Education (CME) requirements for renewal of licensure.

Respondent shall not prescribe any Schedule II and III controlled substances until Respondent has successfully completed the Prescribing Practices Course and has been so notified by the Board or its designee in writing.

A prescribing practices course taken after the acts that gave rise to the charges in the Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board or its designee, be accepted towards the fulfillment of this condition if the course would have been approved by the Board or its designee had the course been taken after the effective date of this Decision.

Respondent shall submit a certification of successful completion to the Board or its designee not later than 15 calendar days after successfully completing the course, or not later than 15 calendar days after the effective date of the Decision, whichever is later.

4. MEDICAL RECORD KEEPING COURSE. Within 60 calendar days of the effective date of this Decision, Respondent shall enroll in a course in medical record keeping equivalent to the Medical Record Keeping Course offered by the Physician Assessment and Clinical Education Program, University of California, San Diego School of Medicine (Program), approved in

1 advance by the Board or its designee. Respondent shall provide the program with any information
2 and documents that the Program may deem pertinent. Respondent shall participate in and
3 successfully complete the classroom component of the course not later than six (6) months after
4 Respondent's initial enrollment. Respondent shall successfully complete any other component of
5 the course within one (1) year of enrollment. The medical record keeping course shall be at
6 Respondent's expense and shall be in addition to the Continuing Medical Education (CME)
7 requirements for renewal of licensure.

8 A medical record keeping course taken after the acts that gave rise to the charges in the
9 Accusation, but prior to the effective date of the Decision may, in the sole discretion of the Board
10 or its designee, be accepted towards the fulfillment of this condition if the course would have
11 been approved by the Board or its designee had the course been taken after the effective date of
12 this Decision.

13 Respondent shall submit a certification of successful completion to the Board or its
14 designee not later than 15 calendar days after successfully completing the course, or not later than
15 15 calendar days after the effective date of the Decision, whichever is later.

16 5. MONITORING - PRACTICE. Within 30 calendar days of the effective date of this
17 Decision, Respondent shall submit to the Board or its designee for prior approval as a practice
18 monitor, the name and qualifications of one or more licensed physicians and surgeons whose
19 licenses are valid and in good standing, and who are preferably American Board of Medical
20 Specialties (ABMS) certified. A monitor shall have no prior or current business or personal
21 relationship with Respondent, or other relationship that could reasonably be expected to
22 compromise the ability of the monitor to render fair and unbiased reports to the Board, including
23 but not limited to any form of bartering, shall be in Respondent's field of practice, and must agree
24 to serve as Respondent's monitor. Respondent shall pay all monitoring costs.

25 The Board or its designee shall provide the approved monitor with copies of the Decision
26 and Accusation, and a proposed monitoring plan. Within 15 calendar days of receipt of the
27 Decision, Accusation, and proposed monitoring plan, the monitor shall submit a signed statement
28 that the monitor has read the Decision and Accusation, fully understands the role of a monitor,

1 and agrees or disagrees with the proposed monitoring plan. If the monitor disagrees with the
2 proposed monitoring plan, the monitor shall submit a revised monitoring plan with the signed
3 statement for approval by the Board or its designee.

4 Within 60 calendar days of the effective date of this Decision, and continuing throughout
5 probation, Respondent's practice shall be monitored by the approved monitor. Respondent shall
6 make all records available for immediate inspection and copying on the premises by the monitor
7 at all times during business hours and shall retain the records for the entire term of probation.

8 If Respondent fails to obtain approval of a monitor within 60 calendar days of the effective
9 date of this Decision, Respondent shall receive a notification from the Board or its designee to
10 cease the practice of medicine within three (3) calendar days after being so notified. Respondent
11 shall cease the practice of medicine until a monitor is approved to provide monitoring
12 responsibility.

13 The monitors shall submit a quarterly written report to the Board or its designee which
14 includes an evaluation of Respondent's performance, indicating whether Respondent's practices
15 are within the standards of practice of medicine, and whether Respondent is practicing medicine
16 safely, billing appropriately or both. It shall be the sole responsibility of Respondent to ensure
17 that the monitor submits the quarterly written reports to the Board or its designee within 10
18 calendar days after the end of the preceding quarter.

19 If the monitor resigns or is no longer available, Respondent shall, within 5 calendar days of
20 such resignation or unavailability, submit to the Board or its designee, for prior approval, the
21 name and qualifications of a replacement monitor who will be assuming that responsibility within
22 15 calendar days. If Respondent fails to obtain approval of a replacement monitor within 60
23 calendar days of the resignation or unavailability of the monitor, Respondent shall receive a
24 notification from the Board or its designee to cease the practice of medicine within three (3)
25 calendar days after being so notified Respondent shall cease the practice of medicine until a
26 replacement monitor is approved and assumes monitoring responsibility.

27 In lieu of a monitor, Respondent may participate in a professional enhancement program
28 equivalent to the one offered by the Physician Assessment and Clinical Education Program at the

1 University of California, San Diego School of Medicine, that includes, at minimum, quarterly
2 chart review, semi-annual practice assessment, and semi-annual review of professional growth
3 and education. Respondent shall participate in the professional enhancement program at
4 Respondent's expense during the term of probation.

5 6. NOTIFICATION. Within seven (7) days of the effective date of this Decision, the
6 Respondent shall provide a true copy of this Decision and Accusation to the Chief of Staff or the
7 Chief Executive Officer at every hospital where privileges or membership are extended to
8 Respondent, at any other facility where Respondent engages in the practice of medicine,
9 including all physician and locum tenens registries or other similar agencies, and to the Chief
10 Executive Officer at every insurance carrier which extends malpractice insurance coverage to
11 Respondent. Respondent shall submit proof of compliance to the Board or its designee within 15
12 calendar days.

13 This condition shall apply to any change(s) in hospitals, other facilities or insurance carrier.

14 7. SUPERVISION OF PHYSICIAN ASSISTANTS. During probation, Respondent is
15 prohibited from supervising physician assistants.

16 8. OBEY ALL LAWS. Respondent shall obey all federal, state and local laws, all rules
17 governing the practice of medicine in California and remain in full compliance with any court
18 ordered criminal probation, payments, and other orders.

19 9. QUARTERLY DECLARATIONS. Respondent shall submit quarterly declarations
20 under penalty of perjury on forms provided by the Board, stating whether there has been
21 compliance with all the conditions of probation.

22 Respondent shall submit quarterly declarations not later than 10 calendar days after the end
23 of the preceding quarter.

24 10. GENERAL PROBATION REQUIREMENTS.

25 Compliance with Probation Unit

26 Respondent shall comply with the Board's probation unit and all terms and conditions of
27 this Decision.

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1 Address Changes

2 Respondent shall, at all times, keep the Board informed of Respondent's business and
3 residence addresses, email address (if available), and telephone number. Changes of such
4 addresses shall be immediately communicated in writing to the Board or its designee. Under no
5 circumstances shall a post office box serve as an address of record, except as allowed by Business
6 and Professions Code section 2021(b).

7 Place of Practice

8 Respondent shall not engage in the practice of medicine in Respondent's or patient's place
9 of residence, unless the patient resides in a skilled nursing facility or other similar licensed
10 facility.

11 License Renewal

12 Respondent shall maintain a current and renewed California physician's and surgeon's
13 license.

14 Travel or Residence Outside California

15 Respondent shall immediately inform the Board or its designee, in writing, of travel to any
16 areas outside the jurisdiction of California which lasts, or is contemplated to last, more than thirty
17 (30) calendar days.

18 In the event Respondent should leave the State of California to reside or to practice
19 Respondent shall notify the Board or its designee in writing 30 calendar days prior to the dates of
20 departure and return.

21 11. INTERVIEW WITH THE BOARD OR ITS DESIGNEE. Respondent shall be
22 available in person upon request for interviews either at Respondent's place of business or at the
23 probation unit office, with or without prior notice throughout the term of probation.

24 12. NON-PRACTICE WHILE ON PROBATION. Respondent shall notify the Board or
25 its designee in writing within 15 calendar days of any periods of non-practice lasting more than
26 30 calendar days and within 15 calendar days of Respondent's return to practice. Non-practice is
27 defined as any period of time Respondent is not practicing medicine in California as defined in
28 Business and Professions Code sections 2051 and 2052 for at least 40 hours in a calendar month

1 in direct patient care, clinical activity or teaching, or other activity as approved by the Board. All
2 time spent in an intensive training program which has been approved by the Board or its designee
3 shall not be considered non-practice. Practicing medicine in another state of the United States or
4 Federal jurisdiction while on probation with the medical licensing authority of that state or
5 jurisdiction shall not be considered non-practice. A Board-ordered suspension of practice shall
6 not be considered as a period of non-practice.

7 In the event Respondent's period of non-practice while on probation exceeds 18 calendar
8 months, Respondent shall successfully complete a clinical training program that meets the criteria
9 of Condition 18 of the current version of the Board's "Manual of Model Disciplinary Orders and
10 Disciplinary Guidelines" prior to resuming the practice of medicine.

11 Respondent's period of non-practice while on probation shall not exceed two (2) years.

12 Periods of non-practice will not apply to the reduction of the probationary term.

13 Periods of non-practice will relieve Respondent of the responsibility to comply with the
14 probationary terms and conditions with the exception of this condition and the following terms
15 and conditions of probation: Obey All Laws; and General Probation Requirements.

16 13. COMPLETION OF PROBATION. Respondent shall comply with all financial
17 obligations (e.g., restitution, probation costs) not later than 120 calendar days prior to the
18 completion of probation. Upon successful completion of probation, Respondent's certificate shall
19 be fully restored.

20 14. VIOLATION OF PROBATION. Failure to fully comply with any term or condition
21 of probation is a violation of probation. If Respondent violates probation in any respect, the
22 Board, after giving Respondent notice and the opportunity to be heard, may revoke probation and
23 carry out the disciplinary order that was stayed. If an Accusation, or Petition to Revoke Probation,
24 or an Interim Suspension Order is filed against Respondent during probation, the Board shall have
25 continuing jurisdiction until the matter is final, and the period of probation shall be extended until
26 the matter is final.

27 15. LICENSE SURRENDER. Following the effective date of this Decision, if
28 Respondent ceases practicing due to retirement or health reasons or is otherwise unable to satisfy

1 the terms and conditions of probation, Respondent may request to surrender his or her license.
2 The Board reserves the right to evaluate Respondent's request and to exercise its discretion in
3 determining whether or not to grant the request, or to take any other action deemed appropriate
4 and reasonable under the circumstances. Upon formal acceptance of the surrender, Respondent
5 shall within 15 calendar days deliver Respondent's wallet and wall certificate to the Board or its
6 designee and Respondent shall no longer practice medicine. Respondent will no longer be subject
7 to the terms and conditions of probation. If Respondent re-applies for a medical license, the
8 application shall be treated as a petition for reinstatement of a revoked certificate.

9 16. PROBATION MONITORING COSTS. Respondent shall pay the costs associated
10 with probation monitoring each and every year of probation, as designated by the Board, which
11 may be adjusted on an annual basis. Such costs shall be payable to the Medical Board of
12 California and delivered to the Board or its designee no later than January 31 of each calendar
13 year.

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1 ACCEPTANCE

2 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
3 discussed it with my attorney, Albert J. Garcia, Esq. I understand the stipulation and the effect it
4 will have on my Physician's and Surgeon's Certificate. I enter into this Stipulated Settlement and
5 Disciplinary Order voluntarily, knowingly, and intelligently, and agree to be bound by the
6 Decision and Order of the Medical Board of California.

7
8 DATED:

April 06, 2016 Hai V. Nguyen MD
9 HAI VAN NGUYEN, M.D.
10 Respondent

11 I have read and fully discussed with Respondent Hai Van Nguyen, M.D. the terms and
12 conditions and other matters contained in the above Stipulated Settlement and Disciplinary Order.
13 I approve its form and content.

14 DATED: March 25, 2016

Albert Garcia
15 ALBERT J. GARCIA, ESQ.
16 Attorney for Respondent

17 ENDORSEMENT

18 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
19 submitted for consideration by the Medical Board of California.

20 Dated:

April 22, 2016

21 KAMALA D. HARRIS
22 Attorney General of California
23 JANE ZACK SIMON
24 Supervising Deputy Attorney General

Brenda P. Reyes

25 BRENDA P. REYES
26 Deputy Attorney General
27 Attorneys for Complainant

28 SF2013405372

Exhibit A

Accusation No. 12-2011-216564

FILED
STATE OF CALIFORNIA
MEDICAL BOARD OF CALIFORNIA
SACRAMENTO March 20, 2014
BY [Signature] ANALYST

Case No. 12-2011-216564

ACCUSATION

Physician's and Surgeon's Certificate
No. A 44145

Respondent.

PARTIES

1

JURISDICTION

2. This Accusation is brought before the Medical Board of California ("Board"), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code unless otherwise indicated.

3. Section 2227 provides that the Board may, after a finding of the licensee's unprofessional conduct or after a stipulation has been entered by the licensee, revoke or suspend the license or take such other action as the Board may deem proper.

4. Section 2234 of the Code, states:

"The board shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

"(a) Violating or attempting to violate, directly or indirectly, assisting in or abetting the violation of, or conspiring to violate any provision of this chapter.

"(b) Gross negligence.

"(c) Repeated negligent acts. To be repeated, there must be two or more negligent acts or omissions. An initial negligent act or omission followed by a separate and distinct departure from the applicable standard of care shall constitute repeated negligent acts.

"(1) An initial negligent diagnosis followed by an act or omission medically appropriate for that negligent diagnosis of the patient shall constitute a single negligent act.

"(2) When the standard of care requires a change in the diagnosis, act, or omission that constitutes the negligent act described in paragraph (1), including, but not limited to, a reevaluation of the diagnosis or a change in treatment, and the licensee's conduct departs from the applicable standard of care, each departure constitutes a separate and distinct breach of the standard of care.

"..."

5. Section 2242(a) of the Code states: "Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4022 without an appropriate prior examination and a medical indication, constitutes unprofessional conduct."

1 drug as defined in section 4022, and a Schedule III controlled substance and narcotic as defined
2 by section 11056, subdivision (e), of the Health and Safety Code. Alcohol and other CNS
3 depressants may produce an additive CNS depression when taken with this combination product
4 and should be avoided. Patients taking other narcotic analgesics, antihistamines, antipsychotics,
5 antianxiety agents, or other central nervous system (CNS) depressants (including alcohol)
6 concomitantly with Vicodin may exhibit an additive CNS depression. The dose of one or both
7 agents should therefore be reduced. Repeated administration of Vicodin over a course of several
8 weeks may result in psychic and physical dependence.

9 10. **Valium** is the trade name for diazepam, a psychotropic drug for the management of
10 anxiety disorders or for the short-term relief of the symptoms of anxiety. It is a dangerous drug as
11 defined in section 4022 and a schedule IV controlled substance as defined by section 11057 of the
12 Health and Safety Code. Diazepam can produce psychological and physical dependence and it
13 should be prescribed with caution particularly when prescribed to addiction-prone individuals.

14 10. **Carisoprodol** is a muscle-relaxant and sedative. It is a dangerous drug as defined in
15 section 4022. Since the effects of carisoprodol and alcohol or carisoprodol and other CNS
16 depressants or psychotropic drugs may be additive, appropriate caution should be exercised with
17 patients who take more than one of these agents simultaneously. Carisoprodol is metabolized in
18 the liver and excreted by the kidneys; to avoid its excess accumulation, caution should be
19 exercised in administration to patients with compromised liver or kidney functions.

20 Patient K.P.

21 FIRST CAUSE FOR DISCIPLINE
22 (Prescribing Dangerous Drugs Without
23 Appropriate Prior Examination and Indication)

24 11. Respondent is subject to disciplinary action for unprofessional conduct under section
25 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient K.P.¹ without an
26 appropriate prior examination and without medical indication. The circumstances are as follows:

27 _____
28 ¹ The patients are referred to herein by their initials to maintain patient privacy. The (continued...)

12. Respondent first saw patient K.P. on August 21, 2009. Respondent's chart notes for this visit indicate K.P. had complaints of chest congestion, cough of one week's duration, and a 6 month history of pain radiating down her right leg. Respondent's notes pertaining to his physical examination of K.P. state only that her lungs were clear, she had good muscle tone and strength, and her back was not painful to palpation. His recordation of K.P.'s vital signs was incomplete. There was no description of any previous pain treatment, no reference to substance abuse history, no social or family history noted, and no clinical review of systems in Respondent's record for this visit. There is no diagnosis noted for K.P. Respondent prescribed an antibiotic, an albuterol inhaler, Phenergan with codeine, and Vicodin for K.P. at this initial contact with patient K.P.

13. Respondent's medical record for patient K.P. indicates he saw her at 28 subsequent office visits, approximately once per month, ending on July 3, 2012. Over that period, Respondent repeatedly prescribed narcotics for patient K.P. without documentation of an adequate physical examination and without a clear statement of clinical indication for such narcotic use. No initial or subsequent chart notes by Respondent reflect a comprehensive pain treatment plan for K.P.

14. Respondent has subjected his license to discipline in that his prescribing of dangerous drugs to patient K.P. without appropriate prior examination and without medical indication violates section 2242 and constitutes unprofessional conduct.

SECOND CAUSE FOR DISCIPLINE

(Negligence)

15. The allegations of paragraphs 14 and 15 are incorporated by reference. Respondent is subject to disciplinary action under section 2234(c) in that his failure to document and implement a pain treatment plan for patient K.P. when prescribing a long course of narcotics is a departure from the standard of care, constituting negligence. When considered in conjunction with the additional acts of negligence alleged herein, this departure constitutes repeated negligent acts and unprofessional conduct under section 2234(c).

(...continued)

(...continued)
patients' full names will be provided to Respondent upon request.

1 THIRD CAUSE FOR DISCIPLINE

2 (Failure to Maintain Adequate Medical Records)

3 16. The allegations of paragraphs 14 and 15 are incorporated herein by reference.
4 Respondent's license is subject to disciplinary action for unprofessional conduct under section
5 2266 in that he failed to maintain adequate and accurate records relating to the provision of
6 medical services to patient K.P.

7 Patient R.G.

8 FOURTH CAUSE FOR DISCIPLINE
9 (Prescribing Dangerous Drugs Without
10 Appropriate Examination and Indication)

11 17. Respondent is subject to disciplinary action for unprofessional conduct under section
12 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient R.G. without an
13 appropriate prior examination and without medical indication. The circumstances are as follows:

14 18. Patient R.G. first presented to Respondent at his medical offices on February 14,
15 2006. Respondent's chart notes for that initial visit state that R. G. was complaining of chest
16 congestion, shortness of breath, sweating and chills, and chronic back/knee pain. In his notes of
17 the physical examination, Respondent documented only "grinding" of the left knee and an
18 abnormal lung examination. Respondent's medical record for R.G.'s initial visit contains no
19 family history, no standard review of systems, no description of prior treatment for pain, and no
20 reference to any discussion of substance abuse in her history. Respondent prescribed oral
21 antibiotics, Phenergan with codeine, and Vicodin to R.G. at this initial visit.

22 19. Respondent's medical record for R.G. indicates he saw her on 63 separate occasions
23 between February 14, 2006, and the last documented visit on July 18, 2012. During that period
24 Respondent reportedly treated R.G. for various ailments including back and joint pain,
25 hypertension, and chronic obstructive pulmonary disease/asthma. He repeatedly prescribed
26 narcotics, including Vicodin, valium, and carisoprodol to R.G. throughout this time period
27 without documentation of an adequate physical examination at any point and without a clear
28 statement of clinical indication for such narcotic use. There is no indication of any discussion

1 regarding the risks of the medications being prescribed. No initial or subsequent chart notes by
2 Respondent reflect a comprehensive pain treatment plan. There is a copy of a lumbar x-ray
3 study dated April 24, 2006, reportedly showing lumbar lordosis and mild degenerative spurring at
4 L5-S1, with possible bony neuroforaminal stenosis at that same location. No other diagnostic
5 studies appear in Respondent's records for R.G. There are no descriptions in Respondent's
6 medical record for R.G. of the specific location of her back pain or descriptions of the pains
7 duration or intensity, nor is there any discussion of any limits on physical activity imposed by the
8 pain. Over this six year period of treatment in which Respondent regularly prescribed
9 hydrocodone with acetaminophen to R.G., there was only one laboratory test of metabolic
10 function, showing normal liver enzymes on June 9, 2010.

11 20. Respondent has subjected his license to discipline in that his prescribing of dangerous
12 drugs to patient R.G. without appropriate prior examination and without medical indication
13 violates section 2242 and constitutes unprofessional conduct.

14 FIFTH CAUSE FOR DISCIPLINE

15 (Failure to Maintain Adequate Medical Records)

16 21. The allegations of paragraphs 20 and 21 are incorporated herein by reference.
17 Respondent's license is subject to disciplinary action for unprofessional conduct under section
18 2266 in that he failed to maintain adequate and accurate records relating to the provision of
19 medical services to patient R.G.

20 SIXTH CAUSE FOR DISCIPLINE

21 (Repeated Negligent Acts)

22 22. The allegations of paragraphs 20 and 21 are incorporated by reference. Respondent
23 is subject to disciplinary action under section 2234(c) in that his failure to document and
24 implement a pain treatment plan for patient R.G. when prescribing a long course of narcotics and
25 his failure to conduct periodic clinical assessments of R.G. while prescribing controlled
26 substances are departures from the standard of care, constituting negligence. When considered in
27 conjunction with the additional acts of negligence alleged herein, these departures constitutes
28 repeated negligent acts and unprofessional conduct under section 2234(c).

Patient R.J.

SEVENTH CAUSE FOR DISCIPLINE

(Repeated Negligent Acts)

23. Respondent is subject to disciplinary action under section 2234(c) in that his care and treatment of patient R.J. included departures from the standard of care constituting negligence. The circumstances are as follows:

24. Patient R.J. first saw Respondent in an office visit on February 27, 2009. Respondent's chart notes for this visit state that R.J. complained of episodic back pain over a period of two years, knee pain, chest congestion, cough, wheezing, and epigastric pain. Respondent noted joint grinding, clear lungs, and that R.J.'s epigastric pain was worse when supine. The medical record contains no other assessment, no review of systems, no family or social history, no information about substance abuse, and no past medical history. There is no indication that Respondent was aware of whether any other providers were concurrently seeing the patient. Respondent's record indicates he recommended R.J. have lab tests, including H Pylori serology, and lumbar/sacral x-rays, but the record contains no x-rays or radiologic reports of R.J.'s back. Respondent prescribed bronchodilators, Phenergan with codeine, Vicodin, and carisoprodol for R.J. on this initial visit. There is no indication of any discussion with R.J. regarding the risks of the medications being prescribed.

25. R.J. was next seen at Respondent's medical offices one year later, on February 16, 2010. Respondent documented only a limited history and examination. Respondent's progress notes indicate he again recommended R.J. have x-rays of the sacral spine, but there are no x-rays or radiology reports in Respondent's records for R.J. Respondent did not document any assessment or diagnosis. Respondent again prescribed Vicodin and carisoprodol for R.J. and a course of oral antibiotics.

26. Respondent saw R. J. at six subsequent office visits, the last being on March 23, 2011. At each of the office visits Respondent renewed R.J.'s prescriptions for Vicodin, Phenergan with codeine, and either carisoprodol or valium.

1 27. Respondent is subject to disciplinary action under section 2234(c) in that his failure to
2 document and implement a pain treatment plan when regularly prescribing narcotics to patient
3 R.J. and his failure to conduct periodic clinical assessments of R.J. over the period in which he
4 was prescribing narcotics to R.J. are departures from the standard of care, constituting
5 negligence. When considered in conjunction with the additional acts of negligence alleged
6 herein, these departures constitutes repeated negligent acts and unprofessional conduct under
7 section 2234(c).

8 EIGHTH CAUSE FOR DISCIPLINE
9 (Prescribing Dangerous Drugs Without
 Appropriate Prior Examination and Indication)

10 28. The allegations of paragraphs 26-28 are incorporated herein by reference.
11 Respondent is subject to disciplinary action for unprofessional conduct under section 2242 in that
12 he prescribed dangerous drugs as defined by section 4022 to patient R.J. without an appropriate
13 prior examination and without medical indication.

14 NINTH CAUSE FOR DISCIPLINE
15 (Failure to Maintain Adequate Medical Records)

16 29. The allegations of paragraphs 26-28 are incorporated herein by reference.
17 Respondent's license is subject to disciplinary action for unprofessional conduct under section
18 2266 in that he failed to maintain adequate and accurate records relating to the provision of
19 medical services to patient R.J.

20 Patient A.M.

21 TENTH CAUSE FOR DISCIPLINE
22 (Prescribing Dangerous Drugs Without
23 Appropriate Examination and Indication)

24 30. Respondent is subject to disciplinary action for unprofessional conduct under section
25 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient A.M. without an
26 appropriate prior examination and a medical indication. The circumstances are as follows:
27

31. Patient A.M. first saw Respondent on May 13, 2008. Respondent's chart entries for that visit state that A. M. was complaining of chest congestion, fatigue, cough, shortness of breath, and epigastric pain. Respondent's limited physical examination noted that A.M. had trapezius spasms and grinding of shoulder and knee joints. His examination notes do not record any of A.M.'s vital signs. Respondent's notes indicate he ordered cervical x-rays for A. M.; a radiologic report in the file dated July 22, 2008 shows mild degenerative changes. Respondent's entries regarding A.M.'s past medical history note only that she had no known allergies and was taking Synthroid. There is no social or family history noted, no review of systems, no substance abuse history, and no description of any previous pain treatment efforts. There is no diagnosis presented in the record for this visit nor a treatment plan to address A.M.'s pain. There is no indication Respondent attempted to obtain records from A.M.'s prior treating doctor. On this first visit Respondent gave A.M. prescriptions for an oral antibiotic, bronchodilators, Phenergan with codeine, and Tylenol with codeine. There is no indication of any discussion with A.M. regarding the risks of the medications being prescribed.

32. Respondent saw A. M. at 33 subsequent visits, the last being on May 26, 2011. Over this course of treatment Respondent regularly prescribed either Tylenol with codeine or Vicodin, with no clinical rationale presented when he changed the prescriptions between these two narcotics. During this period in which Respondent was regularly prescribing narcotics to A.M., his chart entries do not reflect any testing of her range of motion, limb strength, sensation, or reflexes. No entries indicate any discussion with A.M. about possible side effects of the narcotics or other prescribed controlled substances. There is no indication that Respondent assessed her adherence to the recommended use of the prescribed medications.

33. Respondent has subjected his license to discipline in that his prescribing of dangerous drugs to patient A.M. without appropriate prior examination and without medical indication violates section 2242 and constitutes unprofessional conduct.

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ELEVENTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

34. The allegations of paragraphs 33 and 34 are incorporated by reference. Respondent is subject to disciplinary action under section 2234(c) in that his failure to document and implement a pain treatment plan for patient A.M. when regularly prescribing narcotics for pain is a departure from the standard of care, constituting negligence. When considered in conjunction with the additional acts of negligence alleged herein, this departure constitutes repeated negligent acts and unprofessional conduct under section 2234(c).

TWELFTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate Medical Records)

35. The allegations of paragraphs 33 and 34 are incorporated herein by reference. Respondent's license is subject to disciplinary action for unprofessional conduct under section 2266 in that he failed to maintain adequate and accurate records relating to the provision of medical services to patient A.M.

Patient D.R.

THIRTEENTH CAUSE FOR DISCIPLINE
(Repeated Negligent Acts)

36. Respondent is subject to disciplinary action under section 2234(c) in that his care and treatment of patient D.R. included departures from the standard of care constituting negligence. The circumstances are as follows:

37. According to his statement to Board investigators, Respondent began treating patient D.R. about 2006 but the records pertaining to treatment prior to mid-2011 were lost. Respondent's extant medical record of his treatment of patient D.R. consists of notes of 13 office visits, beginning June 21, 2011 and ending July 18, 2012. Respondent's medical record of these 13 documented visits reveals multiple prescriptions for Phenergan with codeine, valium, carisoprodol, and Vicodin ES. Respondent's chart entries for these visits do not reflect any discussion with D.R. of possible side effects of the narcotics he was receiving or pain treatment alternatives to the narcotics, any clinical rationale for changes in the prescription regimen between visits, no suggestion of any referral to an orthopedic surgeon for evaluation of D.R.'s

1 multiple joint pain, and no periodic reevaluation of a pain treatment plan for this patient to whom
2 he prescribed narcotics for pain control for more than one year. The record contains no reference
3 to any discussion with D.R. regarding the risks of the medications being prescribed to him.

4 38. Respondent is subject to disciplinary action under section 2234(c) in that his failure to
5 conduct periodic re-evaluation of his prescribing to D.R. over at least a one year period is a
6 departure from the standard of care constituting negligence. When considered in conjunction
7 with the additional acts of negligence alleged herein, this departure constitutes repeated negligent
8 acts and unprofessional conduct under section 2234(c).

9
10 FOURTEENTH CAUSE FOR DISCIPLINE
(Failure to Maintain Adequate Medical Records)

11 39. The allegations of paragraph 37 are incorporated herein by reference. Respondent's
12 license is subject to disciplinary action for unprofessional conduct under section 2266 in that he
13 failed to maintain adequate and accurate records relating to the provision of medical services to
14 patient D.R.

15 Patient U.W.

16 FIFTEENTH CAUSE FOR DISCIPLINE
17 (Prescribing Dangerous Drugs Without
18 Appropriate Prior Examination and Indication)

19 40. Respondent is subject to disciplinary action for unprofessional conduct under section
20 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient U.W. without an
21 appropriate prior examination and a medical indication. The circumstances are as follows:

22 41. Respondent first saw patient U.W. on December 30, 2008. At that initial visit,
23 Respondent recorded the patient's complaints as chest congestion, coughing, shortness of breath,
24 and epigastric and neck pain. Respondent did not document any past medical history, apart from
25 a notation of allergies. Some vital signs are noted. The physical examination notes in the chart
26 pertaining to U.W.'s pain refer only to spasms of his trapezius and "crepitus of shoulder/knee
27 joints." There is nothing in the chart indicating the effect of these complaints on the patient's
28 level of functioning and no report of any prior pain treatments. Respondent documented no social

1 or family history, there was no review of systems, and no diagnosis was recorded for this visit.
2 There is no documentation of any discussion of a substance abuse history. At this initial visit
3 Respondent prescribed an inhaler, Phenergan with codeine, Vicodin, and carisoprodol. There is
4 no indication of any discussion regarding the risks of the medications being prescribed, nor is
5 there a documented treatment plan apart from recommendations for lumbar/sacral x-rays and the
6 pain medications prescribed.

7 42. Patient U.W. saw Respondent at 39 subsequent office visits, the last on July 16, 2012.
8 Respondent regularly prescribed opiates to U.W. throughout this period. There is no indication in
9 the medical record of any discussion with the patient of possible side effects from the narcotics
10 prescribed.

11 43. Respondent has subjected his license to discipline in that his prescribing of dangerous
12 drugs to patient U.W. without appropriate prior examination and without medical indication
13 violates section 2242 and constitutes unprofessional conduct.

14 SIXTEENTH CAUSE FOR DISCIPLINE
15 (Repeated Negligent Acts)

16 44. The allegations of paragraphs 43 and 44 are incorporated by reference. Respondent is
17 subject to disciplinary action under section 2234(c) in that his failure to document and implement
18 a pain treatment plan for patient U.W. when regularly prescribing narcotics for pain is a departure
19 from the standard of care, constituting negligence. When considered in conjunction with the
20 additional acts of negligence alleged herein, this departure constitutes repeated negligent acts and
21 unprofessional conduct under section 2234(c).

22 SEVENTEENTH CAUSE FOR DISCIPLINE
23 (Failure to Maintain Adequate Medical Records)

24 45. The allegations of paragraphs 43 and 44 are incorporated herein by reference.
25 Respondent's license is subject to disciplinary action for unprofessional conduct under section
26 2266 in that he failed to maintain adequate and accurate records relating to the provision of
27 medical services to patient U.W.

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Patient D.W.

EIGHTEENTH CAUSE FOR DISCIPLINE
(Prescribing Dangerous Drugs Without
Appropriate Prior Examination and Indication)

46. Respondent is subject to disciplinary action for unprofessional conduct under section 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient D.W. without an appropriate prior examination and without medical indication. The circumstances are as follows:

47. Respondent first saw patient D.W. on February 22, 2008. Respondent's chart entries for that visit document the patient's complaints as chest congestion, cough, shortness of breath, and neck and knee pain reportedly originating from an auto accident in 2003. The chart includes records from prior treating physicians and diagnostic studies of the patient's neck and knee in 2003-2004. Respondent's notes of his physical examination of D.W. refers only to "crepitus of the shoulders/knee joints" and "no muscle spasm." There is no past medical history recorded apart from noting that D.W. had no allergies. There was no social or family history presented, no review of systems, and no diagnosis. There is no documentation of recommended/ordered diagnostic studies or referrals to specialists. There is no substance abuse history or discussion of any prior pain treatment. Respondent did not document a treatment plan for D.W.'s pain. On this first visit, Respondent prescribed an inhaler, Phenergan with codeine, Vicodin, and carisoprodol. There is no documentation in the record to suggest Respondent discussed possible side effects of the medications prescribed or of possible alternative therapies to address the patient's pain.

48. Respondent saw D.W. on 38 subsequent visits, ending on January 31, 2012. Respondent regularly prescribed narcotics to D. W. during this period without adequately assessing D.W.'s adherence to the recommended use of the prescribed medications and without reviewing whether the patient was experiencing any adverse side effects from the medications.

49. Respondent has subjected his license to discipline in that his prescribing of dangerous drugs to patient D.W. without appropriate prior examination and without medical indication violates section 2242 and constitutes unprofessional conduct.

1 NINETEENTH CAUSE FOR DISCIPLINE
2 (Repeated Negligent Acts)

3 50. The allegations of paragraphs 49 and 50 are incorporated by reference. Respondent is
4 subject to disciplinary action under section 2234(c) in that his failure to formulate and implement
5 a pain treatment plan when prescribing narcotics to patient D.W. and his failure to conduct
6 periodic clinical assessments of D.W. over the period in which he was regularly prescribing
7 narcotics to D.W. are departures from the standard of care, constituting negligence. When
8 considered in conjunction with the additional acts of negligence alleged herein, these departures
9 constitutes repeated negligent acts and unprofessional conduct under section 2234(c).

10 TWENTIETH CAUSE FOR DISCIPLINE
11 (Failure to Maintain Adequate Medical Records)

12 51. The allegations of paragraphs 49 and 50 are incorporated herein by reference.
13 Respondent's license is subject to disciplinary action for unprofessional conduct under section
14 2266 in that he failed to maintain adequate and accurate records relating to the provision of
15 medical services to patient D.W.

16 Patient S.W.

17 TWENTY-FIRST CAUSE FOR DISCIPLINE
18 (Prescribing Dangerous Drugs Without
19 Appropriate Prior Examination and Indication)

20 52. Respondent is subject to disciplinary action for unprofessional conduct under section
21 2242 in that he prescribed dangerous drugs as defined by section 4022 to patient S.W. without an
22 appropriate prior examination and without medical indication. The circumstances are as follows:

23 53. Patient S.W. first saw Respondent at his medical offices on April 21, 2005.
24 Respondent's notes for this visit state S.W. was complaining of various respiratory and urinary
25 problems, hypertension, and low back pain. Vital signs were recorded. The limited physical
26 examination documented swollen turbinates, clear lungs, and good muscle tone and strength.
27 Nothing in the record reflects testing of the patient's range of motion or her reflexes nor
28 discussion of the impact of the pain on S.W.'s functioning. There is no description of the back
pain other than noting that it was non-radiating. There is no mention of any previous pain

1 treatments. There is no family history or review of systems included in Respondent's medical
2 record for S.W. Respondent diagnosed S. W. as suffering from hypertension, allergic rhinitis,
3 weight loss, joint pain, and urinary tract infection. At this initial visit Respondent prescribed oral
4 antibiotics, anti-hypertensives, Phenergan with codeine, and Tylenol with codeine. There is no
5 documentation of discussion with the patient of the possible side effects of these medications or
6 of possible treatment alternatives to the pain medications.

7 54. Respondent saw S.W. on 90 subsequent office visits; the last office visit was August
8 1, 2012. Throughout this period of treatment Respondent repeatedly prescribed Phenergan with
9 codeine, carisoprodol, and vicodin for S.W. There is no indication that he periodically reviewed
10 S.W.'s compliance with proper use of the prescribed medications or discussed any adverse side
11 effects of those medications with her.

12 55. Respondent has subjected his license to discipline in that his prescribing of dangerous
13 drugs to patient S.W. without appropriate prior examination and without medical indication
14 violates section 2242 and constitutes unprofessional conduct.

15 TWENTY-SECOND CAUSE FOR DISCIPLINE
16 (Repeated Negligent Acts)

17 56. The allegations of paragraphs 55 and 56 are incorporated by reference. Respondent is
18 subject to disciplinary action under section 2234(c) in that his failure to formulate and implement
19 a pain treatment plan when prescribing narcotics to patient S.W. and his failure to effectively
20 clinically monitor her use of narcotics and other controlled substances he prescribed to her in 90
21 office visits over a seven year period are departures from the standard of care, constituting
22 negligence. When considered in conjunction with the additional acts of negligence alleged
23 herein, these departures constitutes repeated negligent acts and unprofessional conduct under
24 section 2234(c).

25 TWENTY-THIRD CAUSE FOR DISCIPLINE
26 (Failure to Maintain Adequate Medical Records)

27 57. The allegations of paragraphs 55 and 56 are incorporated herein by reference.
28 Respondent's license is subject to disciplinary action for unprofessional conduct under section

2266 in that he failed to maintain adequate and accurate records relating to the provision of medical services to patient S.W.

DISCIPLINARY CONSIDERATIONS

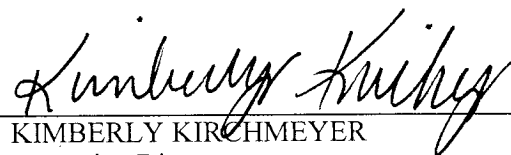
58. On May 19, 1998 an Accusation was filed against Respondent. By consequent Medical Board decision and order, Respondent's physician's and surgeon's certificate was revoked on November 27, 1998. On January 29, 2003, Respondent's petition for reinstatement of his physician's and surgeon's certificate was granted; the license was immediately revoked, the revocation was stayed, and Respondent was placed on 3 years probation. Respondent successfully completed his probation and his license was fully restored on March 11, 2007.

PRAYER

WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged, and that following the hearing, the Medical Board of California issue a decision:

1. Revoking or suspending Physician's and Surgeon's Certificate Number A 44145, issued to Hai Van Nguyen, M.D.;
2. Revoking, suspending or denying approval of Hai Van Nguyen, M.D.'s authority to supervise physician's assistants, pursuant to section 3527 of the Code;
3. Ordering Hai Van Nguyen, M.D., if placed on probation, to pay the Medical Board the costs of probation monitoring; and
2. Taking such other and further action as deemed necessary and proper.

DATED: March 20, 2014



KIMBERLY KIRCHMEYER
Executive Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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accusation.rtf